

Comment Letter # 13

Sent via email to:
rebecca.tolentino@morganhill.ca.gov

Morgan Hill Downtown Association
30 E. 3rd St.
Morgan Hill, CA 95037
408-779-3190
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August 29, 2005

Ms. Rebecca Tolentino, Associate Planner
City of Morgan Hill
Community Development Department
17555 Peak Ave.
Morgan Hill, CA 95037

Subject: Cochrane Road PUD Draft EIR

The Morgan Hill Downtown Association (MHDA) has reviewed the Draft Environmental Impact Report for the Cochrane Road Planned Unit Development and respectfully submits the following comments.

- | | |
|------|---|
| 13-1 | <p>1. The MHDA does not believe that the Draft EIR adequately addresses the economic impacts of the proposed Cochrane Road retail center on the downtown shopping district: It is stated on page i of the Executive Summary of Appendix I, Land Use and Planning, that the proposed project will be developed as a 'lifestyle center' with an emphasis on higher-end stores, dining and entertainment (as indicated by the movie theater complex), creating a destination retail experience... and on page v it states, with respect to downtown, the Proposed Project serves a different niche for both consumers and retailers in Morgan Hill, and as such, should not see major impacts from the Proposed Project. The Morgan Hill Downtown Plan (MHDP) adopted by the City Council states parallel goals for specialty retail, dining and entertainment (including restoration of the historic Granada Theatre) and a destination for all Morgan Hill residents and visitors. While it is our understanding that the Draft EIR was referring to "decay" in its analysis of downtown it is our position that the center is competing with the downtown vision and will impact it economically and could eventually lead to decay without substantive mitigations. (See item 3 below.)</p> |
| 13-2 | <p>2. MHDA does not oppose the proposed project: Even in light of the direct competition stated above, the MHDA understands the City's need to capture sales tax leakage and does not oppose the proposed retail center but urges the City to exercise caution in what uses are approved for the center so that the economic benefit of the proposed center is not at the expense of established Morgan Hill businesses.</p> |
| 13-3 | <p>3. EIR mitigations fall short: If the downtown shopping district is expected to compete with the proposed Cochrane retail center, the downtown revitalization effort must be accelerated. The only mitigations stated in the EIR, a kiosk with</p> |

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Ms. Rebecca Tolentino, Associate Planner
City of Morgan Hill

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4. downtown information and a retail advisor from Target, will fall short of the mitigations necessary for downtown to compete. Following are mitigations we propose be implemented:
- 13-4 a. **Granada Theatre restoration:** The retention and enhancement of the Granada Theatre is identified as a key component of downtown's revitalization in the MHDP yet it remains vacant with no solid plan. To its credit the City has set aside restoration funds, but it must take a more proactive role in facilitating the restoration of the historic theatre.
 - 13-5 b. **New Development**
 - i. **Mixed use High Density Housing:** The downtown needs more residents with neighborhood serving commercial space on the ground floor. However, mixed use is expensive and downtown's current lease rates make financing difficult to impossible. The City needs to waive fees and ease parking requirements to encourage developers to take the leap. No fees will be collected if no one develops.
 - 13-6 ii. **Commercial Development:** Infill commercial along Monterey Road and on 3rd Street will create retail continuity and the critical mass that will bring vibrant sidewalks and higher-end specialty retailers, restaurants and entertainment uses. Fee waivers are a mitigation that will accelerate downtown development and its ability to compete with the proposed center.
 - 13-7 c. **Retail Consultant:** A retail consultant should be provided exclusively to downtown who understands mixed use retail centers such as Santana Row. Employing the same strategies as a shopping center, such a consultant could analyze the existing retail mix and make recommendations on types of uses needed to round out the mix, map out where these uses should be located to compliment existing uses and develop a retail recruitment strategy. This would give the City and MHDA the needed tools to attract the targeted commercial tenants.
 - 13-8 d. **Co-funding of Morgan Hill Downtown Association:** The Morgan Hill Downtown Association understands the urgency in creating a self assessment district downtown. The City should be prepared to fill the gaps not met by the assessment district.

Sincerely,

Dan Craig, Executive Director
Morgan Hill Downtown Association

Response to Letter 13 – Dan Craig, Morgan Hill Downtown Association – August 29, 2005

Response to Comment 13-1

As discussed in Response to Comment #12-7 above, the BAE analysis did not assume that the center would be a lifestyle center in analyzing potential impacts on other retailers in the City of Morgan Hill. As discussed in Response to Comment #2-12, the downtown market represents a different market niche, with a focus on locally-owned small businesses rather than national chains, which are not likely candidates for location in downtown Morgan Hill regardless of whether the proposed project is approved and constructed. It offers a location with lower rents and start-up costs for local entrepreneurs. While some of the store types might be duplicative in a general way, downtown Morgan Hill will continue to offer smaller local merchants business locations that they could not afford at the shopping centers as well as offering a place to go for Morgan Hill residents who wish to shop at locally-owned businesses or for unique offerings of services or goods not found at chain stores. The economic impact analysis did not analyze downtown in terms of the "vision" but with respect to current actual and expected conditions.

The Draft EIR indicates that the proposed project will have a minimal impact on downtown with respect to causing urban decay. The Draft EIR is not stating that there will not be any economic impact on downtown as some businesses may close due to competition from the proposed project. However, the Draft EIR finds that the proposed project will not cause downtown buildings to fall into a blighted condition because property owners are unable to maintain or lease the space. Over the past years, the downtown has suffered vacancies without the competition from the Proposed Project. Currently, many businesses in the downtown are considering relocation options not related to the Proposed Project. However, because lease rates in downtown are lower than other areas of town, property owners have demonstrated the ability to lease the space after a short period time. The uses that occupy the space may not be the most desirable businesses (e.g., retail) for the downtown, but the properties have been occupied and maintained. In addition, for those properties that remain vacant for a longer period of time, owners have shown the propensity to maintain their properties or that the impact of the property on the downtown has not led to a spiraling decay of adjacent properties. It should also be noted that the Redevelopment Agency has over 30 façade easements for properties in the downtown area which allows the Agency to step in and maintain the property should it fall into a state of disrepair. The DEIR does provide mitigations measures that are sufficient to address the potential impacts on downtown.

Response to Comment 13-2

Comment noted. City staff appreciates the Morgan Hill Downtown Association's position on the proposed project and is working with the project applicant to ensure that the

2.0 RESPONSE TO COMMENTS

proposed project best meets the community's needs. The Draft EIR indicates the City experiences \$100 million per year in retail sales leakage. While the proposed project is trying to position itself to capture a majority of that leakage, there will always be an impact on existing businesses as retailers cannot tell its customers where to shop. However, the City estimates the net sales tax gain to the community will exceed \$1 million in net new sales tax revenue from the proposed project which can be used to pay for a variety of City services and projects some of which downtown would benefit from.

Response to Comment 13-3

The City of Morgan Hill and its Redevelopment Agency have been very active in the revitalization efforts of downtown. The Redevelopment Agency has invested/committed over \$30 million in the downtown over the past five years. The Agency has constructed/assisted such projects as the Community and Cultural Center with the Playhouse and Gavilan College, the County Courthouse, Depot Street Improvements, traffic calming improvements, issuing a Request for Proposal (RFP) for \$3 million to encourage development downtown, and assisting various downtown developments in the downtown area (e.g., Granary, Gunter Bros, brew pub).

Response to Comment 13-4

The Redevelopment Agency has committed over \$1 million for the restoration of the Granada Theater. While the Redevelopment Agency took a proactive role in trying to help the parties reach an agreement, the proposed operator and lessee of the theater could not come to business terms. The Redevelopment Agency continues to have interest in seeing the Granada remain a theater but there are many factors beyond its control. The Redevelopment Agency is more than willing to consider any recommendations the Morgan Hill Downtown Association may have with regard to the specific proactive role of the Redevelopment Agency and Morgan Hill Downtown Association in facilitating the restoration of the theater.

Response to Comment 13-5

The City of Morgan Hill has rezoned properties in downtown to encourage higher densities and mixed uses. Recently, the City of Morgan Hill amended its parking code to exempt commercial projects from providing on-site parking and residential projects from providing on-site guest parking in the downtown area. The Redevelopment Agency provides financing programs to finance fees for commercial development, but the City/Agency is also exploring other options for encouraging mixed-use development in the downtown area including exempting projects downtown from the payment of impact fees. However, the waiver of fees is not a simple process and requires analysis to determine if such a waiver will have a de-minimus impact on the respective impact fee funds because the

City's policy is that new development must pay for its fair share of regional improvements. If a determination is made that this is feasible, then the ordinance must be amended.

Response to Comment 13-6

Last year, the City of Morgan Hill amended its ordinance to allow conversions from residential to commercial uses and expansions of existing commercial uses not exceeding 1,500 sq. ft. to be exempt from paying impact fees. The Redevelopment Agency also provides financing programs to finance fees for commercial development, but the City of Morgan Hill/Redevelopment Agency is also exploring other options for encouraging commercial development in the downtown area including exempting projects from the payment of impact fees. However, the waiver of fees is not a simple process and requires analysis to determine if such an exemption would have a de minimus impact on the respective impact fee funds because the City of Morgan Hill policy is that new development must pay for its fair share of regional improvements. If a determination is made that this is feasible, then the ordinance must be amended.

Response to Comment 13-7

The development of a business mix/recruitment strategy is a very good idea for any downtown area. It would seem that the Morgan Hill Downtown Association (MHDA) should be undertaking such a study regardless of the development of the Proposed Project. However, the DEIR does state that the City or developer/businesses would fund programs aimed at assisting small businesses. The resources dedicated to these programs could be reallocated towards the costs of a preparing a business mix/recruitment strategy for downtown.

Response to Comment 13-8

Over the past four years, the Redevelopment Agency has provided \$385,000 to the Morgan Hill Downtown Association to fund its operations. One of the key requirements for funding this FY05-06 is that the Morgan Hill Downtown Association must create a mechanism to become self-funding after this fiscal year. To meet this goal, the Morgan Hill Downtown Association has been pursuing the formation of a property based improvement district (PBID). The City of Morgan Hill has indicated in the past that it would be supportive of the formation of a PBID and would pay its fair share of the assessment. It would be premature at this time for the City of Morgan Hill to commit to fill any gaps not met by the assessment district since it is unknown what the amount of the gap would be, if any. In addition, the City of Morgan Hill would need to evaluate the benefits to the community of filling such a gap as well as evaluating the financial resources of the City of Morgan Hill to fill such a gap if warranted.

Comment Letter #14



August 29, 2005

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Attention: Development Review Committee

Subject: Cochrane Planned Unit Development

Dear Sir or Madam:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for a 657,250-square foot shopping center on 66.49 acres at the northeast corner of Cochrane Road and US 101. We have the following comments.

On-Site Planning and Design

Vehicular Parking

- 14-1 | Parking reductions to account for shared parking among integrated on-site land uses should be considered for this project where appropriate. VTA supports the consideration of these potential reductions so that the number of parking spaces provided is less than that established by City of Morgan Hill code.

Bicycle Parking

- 14-2 | The Draft EIR reports that bicycle parking would be provided as part of this project. Please refer to the VTA *Bicycle Technical Guidelines* for additional guidance on accommodating bicycles on roadways and on estimating supply, siting and design for bicycle storage facilities. This document may be downloaded from www.vta.org/news/vtacmp/Bikes. For more information on bicycle systems and parking, please contact Michelle DeRobertis, Development & Congestion Management Division, at 408-321-5716.

The VTA *Community Design & Transportation (CDT) Guidelines* and the VTA *Pedestrian Technical Guidelines* should be used when designing developments at this site. These documents provide guidance on site planning, building design, street design, preferred pedestrian environment, intersection design and parking requirements. Both documents are available upon request to agency staff. For more information, please call Chris Augenstein, Development & Congestion Management Division, at 408-321-5725.

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Bus Service

VTA staff recommend that the project establish a new bus stop on southbound Cochrane Road, south of Mission View Drive, with the following improvements:

14-3

- A 22-foot curb lane or bus duckout, consistent with VTA standards.
- A passenger waiting pad, adjacent to the stop
- Pedestrian access from the new shopping center to the sidewalk.
- A PCC Bus Stop Pavement Pad, consistent with VTA standards
- No trees should be located in the bus stop loading area.

Transportation System Planning and Design

Proposed Mitigation at Monterey and Dunne

14-4

It is not acceptable to VTA to eliminate an existing bicycle lane to mitigate vehicular traffic impacts. This and future developments should result in the incremental implementation of the bicycle lane network rather than any degradation to the network. In the mitigated striping scenario, where the right-turn only lane becomes a shared through/right-turn lane, the bicycle lane would be adjacent to the curb and delineated with the dashed bike lane marking (Detail 39A). If the existing bicycle lane is carried through to the limit line, and located in between the right-turn only lane and the through lane, this striping would not require any additional roadway pavement width.

Freeway Impact Analysis

14-5

The Draft EIR states that the project will cause significant freeway impact on US 101 between Tennant Avenue and Dunne Avenue. It is documented that the project will have impacts that cannot be feasibly mitigated to CMP standards. The project should undertake Transportation Demand Management (TDM) measures aimed at reducing the number of vehicle trips generated such as:

- Parking Cash-Out
- Direct or Indirect Payments for Taking Alternate Modes
- Transit Fare Incentives such as Eco Pass and Commuter Checks
- Employee Carpool Matching
- Vanpool Program
- Preferentially Located Carpool Parking
- Bicycle Lockers and Bicycle Racks
- Showers and Clothes Lockers for Bicycle Commuters

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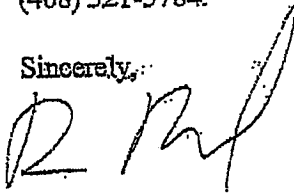
- On-site or Walk-Accessible Employee Services (day-care, dry-cleaning, fitness, banking, convenience store)
- On-site or Walk-Accessible Restaurants
- Guaranteed Ride Home Program
- Carsharing

VTA Support Services

For more information, general questions, technical support, or to arrange a meeting with VTA staff to discuss On-Site Planning and Design of this or any other development projects, please contact George Tacké, Development & Congestion Management Division, at 408-321-5865 or via email at george.tacke@vta.org. VTA staff looks forward to assisting you.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,



Roy Molseed
Senior Environmental Planner

RM:kh

cc: Samantha Swan, VTA

Response to Letter 14 – Santa Clara Valley Transportation Authority (VTA) – August 29, 2005

Response to Comment 14-1

The commenter supports the use of a shared parking analysis, which was conducted for the proposed project, so that the number of parking spaces is less than was established by the City of Morgan Hill. No response is necessary.

Response to Comment 14-2

The commenter suggests that the project applicant use the *VTA Bicycle Technical Guidelines* for additional guidance on accommodating bicycles on roadways and on estimating supply, siting, and design for bicycle storage facilities, as well as the *VTA Community Design and Transportation Guidelines* and the *VTA Pedestrian Technical Guidelines*. Mitigation measure 3.12-9 has been revised to incorporate this information.

MM 3.12-9 The following bicycle facilities shall be incorporated into the project:

- a) Bicycle racks and/or lockers to accommodate bicycle travel by customers and employees. Bicycle parking facilities should be located in high visibility areas in order to encourage bicycle travel and discourage theft and vandalism.
- b) Class II bicycle lanes along the project street frontages.

The Santa Clara Valley Transportation Authority (VTA) Bicycle Technical Guidelines, VTA Community Design and Transportation Guidelines and the VTA Pedestrian Technical Guidelines shall be used in design of the proposed bicycle facilities associated with the proposed project.

Response to Comment 14-3

The EIR identified a potentially significant impact with respect to transit facilities that serve the project site. Mitigation Measure 3.12-7 in Section 3.12, Transportation and Circulation, in the EIR requires the project applicant to construct a new bus stop along the project frontage, including transit amenities, such as a bus turnout, a shelter, and benches. Mitigation Measure 3.12-7 has been modified to ensure that the proposed bus stop is constructed to VTA standards, with the exception of planting trees at the bus stop in order to provide a more comfortable and aesthetically pleasing environment, and require that the City of Morgan Hill work with the project applicant, Caltrain, and the VTA on ways to

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increase the frequency and coverage of transit service serving the project area and the nearest Caltrain station.

Response to Comment 14-4

Commenter states that elimination of the bicycle lane at Monterey Road and Dunne is unacceptable in order to mitigate vehicular traffic impacts. Mitigation Measure 3.12-7 does not require elimination of the bicycle lane. As noted on page 3.12-17, elimination of the bicycle lane would only occur if no additional widening occurred to implement this mitigation measure. City staff will take the recommendations of VTA in consideration when implementing this mitigation measure to ensure consistency with the *City of Morgan Hill General Plan*.

Response to Comment 14-5

Mitigation Measure 3.12-2 would require that the project applicant implement the applicable actions listed in the Immediate Implementation Action List contained in the Deficiency Plan Guidelines of the County's Congestion Management Program, which are intended to encourage the use of non-automobile transportation modes and to help maximize the efficiency of the existing transportation system, such as those noted by the commenter to reduce the number of vehicle trips.

August 26, 2005



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT



Rebecca Tolentino
City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Subject: Cochrane Road Planned Unit Development Project

Dear Ms. Tolentino:

Bay Area Air Quality Management District (District) staff have reviewed your agency's Draft Environmental Impact Report (DEIR) for the Cochrane Road Planned Unit Development Project (project). The project consists of an approximately 657,250 square foot shopping center to be built on approximately 66 acres of land.

Based on the analysis contained in the DEIR, the proposed project will result in significant air quality impacts from the project alone and cumulatively. The DEIR includes Mitigation Measure 3.3-3 that recommends implementing "a trip reduction plan" to reduce single occupant vehicle trips by employees and promote non-auto travel by both employees and patrons. We support the control measures currently identified in Mitigation Measure 3.3-3 and recommend including additional feasible mitigation measures to further reduce the project's significant air quality impacts. These measures could include, but are not limited to: extending the proposed Class II bicycle lanes beyond the project's street frontages so as to connect with existing residential neighborhoods and regional bicycle routes; providing a Class I path between buildings Major 1 and Major 8 to connect the project with the adjacent residentially zoned area just north of the project; providing employees with a parking cash-out incentive to reduce the likelihood of driving alone; providing public service Spare the Air advertising and public service announcements at the project's cinema (District will provide video); and utilizing only electric forklifts and landscaping equipment in the project operations and the operations of tenants.

Since motor vehicles constitute the largest source of air pollution in the Bay Area, the District has a strong interest in promoting transit and other alternative modes of transportation that reduce single occupant vehicle use. We recommend that the FEIR include a description of the existing transit service that serves this project as well as how it connects with regional transportation service such as Caltrain. Further, we support the transit-related control measures included in Mitigation Measure 3.3, such as posting transit rates and scheduling information on bulletin boards and the provision of one bus shelter with pedestrian access to the project site. We recommend including additional transit measures to help further reduce the significant air quality impacts resulting from project operations. For

ALAMEDA COUNTY
Roberta Cooper
Scott Haggerty
Nate Mile
Shelia Young 15-1

CONTRA COSTA COUNTY
Mark DeSaulnier
Mark Ross
(Secretary)
Michael Shimansky
Gayle B. Ullkema
(Vice-Chairperson)

MARIN COUNTY
Harold C. Brown, Jr.

NAPA COUNTY
Brad Wagenknecht

SAN FRANCISCO COUNTY
Chris Daly
Jake McGoldrick
Gavin Newsom

SAN MATEO COUNTY
Jerry Hill
Mariland Townsend
(Chairperson)

SANTA CLARA COUNTY
Erin Garner
Liz Kniss
Patrick Kwok
Julia Miller

SOLANO COUNTY
John F. Silva

SONOMA COUNTY
Tim Smith
Pamela Toriatti

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

Comment Letter #15 Continued

Ms. Rebecca Tolentino

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August 26, 2005

example, we encourage the City to work with the project sponsors, Caltrain and the Santa Clara Valley Transportation Authority (VTA) on ways to increase the frequency and coverage of transit service (shuttle or bus) serving the project area and the nearest Caltrain stations as well as nearby residential areas. We also recommend providing subsidized transit passes to employees at the project site (e.g. VTA's EcoPass program).

15-3

Requiring more parking to satisfy the demand for free or under-priced parking can spread out land uses and increase development costs. We recommend that the FEIR conduct an analysis of what the parking demand would be if modest parking charges were implemented during the peak periods and consider reducing the required parking accordingly. We commend the City for including in Mitigation Measure 3.3-3.a control measure that will "designate a portion of the parking lot for weekday 'park-and-ride' parking spaces," thereby allowing some of the project's 3,025 proposed parking spaces to be used as a daytime regional park-and-ride facility on weekdays. The required parking supply is 2,956 spaces, resulting in a 69 space surplus beyond the City's requirements. Further, the peak parking demand on a weekday is estimated in the DEIR to be 1,712 parking spaces. Permitting carpoolers to use the development's excess parking capacity could reduce emissions in the region, and help off-set emissions from project patrons and employees. We recommend that the project dedicate a minimum of 100 parking spaces for weekday carpoolers located adjacent to Cochrane Road, and that the area be well signed so that carpoolers know where they may park. This element of Mitigation Measure 3.3-3 can also be cross-referenced with Mitigation Measure 3.12-2 as it could help reduce freeway level of service impacts. We understand that the project sponsors have concerns about this element of Mitigation Measure 3.3-3, and we recommend requiring its implementation as a condition of project approval. We also recommend that the City continue to work with the project sponsors, Caltrans District 4, and VTA to develop appropriate policies and siting requirements for the park-and-ride spaces.

15-4

We recommend that the Final Environmental Impact Report (FEIR) evaluate the effectiveness of each of the recommended measures both qualitatively and quantitatively (when possible). Any mitigation measures considered infeasible should be identified in the FEIR as well as the justification for that determination. To ensure the implementation of measures to mitigate significant air quality impacts, we recommend changing wording in Mitigation Measure 3.3-3 from "should" to "shall" and make implementing this mitigation measure part of the project's Conditions of Approval.

15-5

We recommend that the FEIR address the project's potential to increase the demand for energy and generate area source emissions from project operations. Increasing the demand for electricity, natural gas, and gasoline may result in an increase of criteria air pollutant emissions from combustion, as well as an increase in greenhouse gas emissions, which can impact regional air quality. We recommend that the FEIR discuss energy demand of the project at build-out, including any cumulative impacts on energy use from this project and other planned projects in the area, such as the need to build "peaker power plants" to provide power during peak demand. We also recommend including all feasible strategies that will reduce energy consumption and the severity of air quality impacts, including but not limited to the use of: super-efficient heating, ventilation, and air conditioning (HVAC) systems; light-colored and reflective roofing materials,

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Ms. Rebecca Tolentino

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pavement treatments and other energy efficient building materials; the most mature, viable shade trees adjacent to buildings and in parking lots; photovoltaic panels on buildings; and natural light and energy-efficient lighting. We also recommend that the FEIR quantify and list the area source emissions associated with the project separately from the mobile source emissions. This was done for the optional gas station, but there are other sources such as furnaces, gas water heaters, and solvent use. Some of the energy-saving strategies listed above could also reduce area source emissions.

15-6

District staff note that the project is located immediately south of an area zoned for residential development and that the project's buildings Major 1 and Major 8 have loading docks that are adjacent to this area. Given the potential for sensitive receptors to locate next to the loading docks in the future, we recommend providing 110 and 220 volt outlets at the loading docks and require all trucks to connect with these outlets to power their auxiliary equipment. We also recommend limiting the idling of trucks in this location to three minutes.

15-7

We commend the City for implementing all feasible control measures in Mitigation Measure 3.3-2 for fugitive dust emissions from grading and construction. The District does not typically recommend quantification of construction emissions associated with construction activities, but instead bases its threshold of significance for fugitive dust on implementation of all feasible control measures listed in Table 2 of the *BAAQMD CEQA Guidelines*. Further, the kinds of construction equipment commonly used in development projects are primarily diesel-powered, and with continuous use, can lead to significant diesel particulate matter and ozone precursor emissions. The California Air Resources Board (ARB) has identified diesel engine particulate matter as a toxic air contaminant and known carcinogen. Diesel emissions have also been shown to cause coughs, headaches, lightheadedness, and nausea. Acrolein, an air pollutant found in diesel exhaust, has been shown to cause irritation to the eyes, nose, throat and lungs, thereby exacerbating asthma symptoms. Diesel particulate matter could therefore have acute short-term impacts and a disproportionate effect on sensitive receptors (such as the elderly, children, people with illnesses, or others who are especially sensitive to the effects of air pollutants). The project is located adjacent to a residential area and the De Paul Health Center.

To minimize construction impacts from diesel emissions on adjacent sensitive receptors, we recommend implementation of additional measures to reduce combustion emissions from construction equipment – particularly diesel emissions. Such measures could include but are not limited to: maintaining properly tuned engines; minimizing the idling time of diesel powered construction equipment to five minutes; using alternative fueled construction equipment (CNG, biodiesel, water emulsion fuel, electric); using add-on control devices such as diesel oxidation catalysts or particulate filters; using diesel construction equipment that meets the ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines; phasing the construction of the project; and limiting the hours of operation of heavy duty equipment. We recommend that the Final Environmental Impact Report (FEIR) evaluate the effectiveness of each of the recommended measures both qualitatively and quantitatively (when possible). Any mitigation measures considered infeasible should be identified in the FEIR as well as the justification for that determination.

Comment Letter # 15 continued

Ms. Rebecca Tolentino

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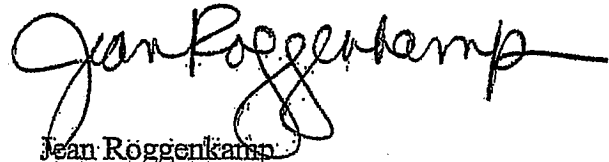
August 26, 2005

15-8

For more details on our agency's guidance regarding environmental review, we recommend that the City refer to the *BAAQMD CEQA Guidelines*. This document provides information on best practices for assessing and mitigating air quality impacts related to projects and plans, including construction emissions, land use/design measures, project operations, motor vehicles, and nuisance impacts. If you do not already have a copy of our *BAAQMD CEQA Guidelines*, we recommend that you obtain a copy by calling our Public Information Division at (415) 749-4900 or downloading the online version from the District's web site at <http://www.baaqmd.gov/pln/ceqa/index.asp>.

If you have any questions regarding these comments, please contact Douglas Kolozsvari, Environmental Planner, at (415) 749-4602.

Sincerely,



Jean Röggenkamp
Deputy Air Pollution Control Officer

JR:DK

cc: BAAQMD Director Erin Garner
BAAQMD Director Liz Kniss
BAAQMD Director Patrick Kwok
BAAQMD Director Julia Miller

Response to Letter 15 – Bay Area Air Quality Management District – August 29, 2005

Response to Comment 15-1

The commenter supports the measures included in Mitigation Measure 3.3-3, but requests that the mitigation measure include extending the proposed Class II bicycle lanes beyond the project street frontages to connect with existing residential neighborhoods and regional bike routes; provide a Class I bike path between Major 1 and Major 8 to connect the project with the adjacent residential zoned area just north of the proposed project, provide employees with parking cash-out incentive to reduce the likelihood of driving alone, provide public service Spare the Air advertising and public service announcements at the project's cinema, and utilize only electric forklifts and landscaping equipment in the project operations and the operations of tenants.

Mitigation Measure 3.12-9 would require the project applicant to incorporate Class II bicycle lanes along the project street frontages consistent with the City of Morgan Hill General Plan. As the surrounding properties are developed they would also be required to comply with the City of Morgan Hill General Plan and incorporate planned bicycle lanes identified in the General Plan. Please note that until the Roland property is developed, bicycle lanes will be provided up to the main driveway off Mission View Drive. Once the Roland property develops, bike lanes will be installed on both sides for the full length of Mission View Drive.

Recommendations, such as providing employees with a cash-out incentive to reduce the likelihood of driving alone, provisions for providing public service announcements that would assist in reducing mobile source air emissions associated with the proposed project have been incorporated as recommendations for the trip reduction plan incorporated in the EIR as Mitigation Measure 3.3-3.

Mitigation Measure 3.3-3 has been revised as follows:

MM 3.3-3a A facilities 'trip reduction plan' shall be implemented by the project applicant to reduce single occupant vehicle commute trips by employees and promote non-auto travel by both employees and patrons. The facilities trip reduction plan ~~shall~~ may include, but not be limited to elements that would reduce traffic, and thus air pollutant emissions as described below:

- Provide one bus stop/shelter with pedestrian access to the project site. Implementation of this measure could reduce project emissions by approximately two percent.
- Bicycle amenities should be provided at the project site once the proposed project is in operation. Bicycle amenities could include

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secure bicycle parking for employees, bicycle racks for customers, and bike lane connections. This vehicle trip reduction measure may reduce emissions associated with the proposed project by approximately two percent.

- Pedestrian facilities should link the future transit stop and access roadways to the major sites uses. This trip reduction measure may reduce emissions by approximately one percent.
- Designate a portion of the parking lot for weekday 'park-and-ride' parking spaces (the excess between weekday peak and weekend peak), which would reduce emissions from traffic to the project site by allowing commuters to park their car and carpool or take transit.
- Require employers at the project site to post transit rates and scheduling information on bulletin boards. This vehicle trip reduction measure may reduce emissions by one percent.

The project applicant shall incorporate as many BAAQMD recommended reduction measures, as reasonably possible, into the trip reduction plan including the following: providing public service announcements including the 'Spare the Air' advertisement at the project's cinema and provisions to provide employees with a parking cash-out incentive to reduce the likelihood of driving alone.

Preparation and implementation of a trip reduction plan designed to reduce traffic congestion in the project area could result in lower emissions from vehicle travel. The amount of congestion relief and related total emission reduction is unknown. Therefore long-term operational emissions associated with the proposed project would remain **significant and unavoidable**, even with full effectiveness of the mitigation measure.

Response to Comment 15-2

Section 3.12, Transportation and Circulation and the traffic impact analysis (TIA), included as Appendix K in the Draft EIR includes a discussion of the existing transit service that serves the project site. Direct transit service is not currently provided between the project site and the Caltrain station, however the station can be accessed via Bus Route 16 to the Main Avenue/Butterfield Boulevard intersection and then walking a quarter mile to the Caltrain station.

The commenter supports Mitigation Measure 3.3, but recommends additional transit measures to help further reduce the significant air quality impacts resulting from project operations, including recommendations that the City of Morgan Hill work with the project sponsors, Caltrain, and the Santa Clara Valley Transportation Authority on ways to increase the frequency and coverage of transit service serving the project area and the nearest Caltrain stations, as well as nearby residential areas and providing subsidized transit passes

to employees at the project site. Mitigation measure 3.3 has been revised to ensure that the City of Morgan Hill coordinates with the project applicant, Caltrain, and the VTA on ways to increase the frequency and coverage of transit service to the project site and to the nearest Caltrain station.

Response to Comment 15-3

The commenter recommends that the FEIR conduct an analysis of what the parking demands would be if modest parking charges were implemented during the peak periods and consider reducing the required parking accordingly. Development projects in the City of Morgan Hill are required to meet the city's parking code requirements. The City's parking code does not include a broader 'shopping center' category, which anticipates a mix of retail and commercial uses. Therefore, City staff determined that it would be appropriate to use the Institute of Traffic Engineers (ITE) parking supply rate for 'shopping center,' an action that is provided for in the City's municipal code for situations where the code does not include a particular land use category. The recommendation of charging for parking in order to encourage carpooling or the use of public transit is not accounted for in the City's Municipal Code.

As noted in Mitigation Measure 3.3-3, a portion of the project site may include designating a portion of the project site as a parking lot for weekday 'park-and-ride' parking spaces, which would reduce emissions from traffic to the project site by allowing commuters to park their car and carpool or take transit. The amount that will be reserved for the park and ride shall be the excess between weekday peak and weekend peak as described in the mitigation measure. All mitigation measures become conditions of approval once the EIR is certified.

Response to Comment 15-4

According to the air quality assessment prepared by Illingworth and Rodkin, Mitigation Measure 3.3-3 would result in a six percent reduction in long-term operational emissions if all of the measures were incorporated into the proposed project. The commenter recommends that Mitigation Measure 3.3-3 is incorporated as part of the project's Conditions of Approval. When the EIR is certified by the City Council, each mitigation measure would become a condition of project approval. Mitigation Measure 3.3-3 has been revised to strike 'should' and replaced with shall in two of the bullet points describing the 'trip reduction plan.'

Response to Comment 15-5

Daily regional air pollutant emissions for the proposed project are presented in Table 3.3-4 of the Draft EIR. This table includes both mobile source and area source emissions associated with the proposed project as shown in the URBEMIS modeling included in

2.0 RESPONSE TO COMMENTS

Appendix D. The major source of emissions associated with the proposed project would be from mobile sources, including vehicles traveling to and from the project site. The proposed project would however result in a slight increase in area source emissions from sources mentioned in the commenters letter, including sources such as heating, air conditioning, and the operation of landscaping equipment. Area source emissions associated with the proposed project would be approximately .54 pounds per day of reactive organic gases (ROG), 6.36 pounds per day of nitrogen oxides (NO_x), 3.13 pounds per day of Carbon Monoxide (CO), and 0.01 pounds per day of fine particulate matter (PM₁₀).

To reduce area source emissions associated with the proposed project, the following mitigation measure has been incorporated into the Draft EIR:

MM 3.3-3b Subject to review and approval by the City of Morgan Hill, the proposed project shall integrate the following design features into the proposed project to reduce area source air quality emissions:

- Carefully select and locate trees to provide shade for structures and pathways within the project site during the summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on southern and western exposures of buildings;
- Incorporate as many energy conserving features as financially feasible into the design and construction of new buildings at the project site. Examples include, but are not limited to, increased wall and ceiling insulation (beyond code requirements), super insulated windows (triple pane) and maximum use of energy efficient lighting;
- Install super-efficient heating, ventilation, and air conditioning (HVAC) systems; and
- Incorporate light colored and reflective roofing materials into the project design.

Response to Comment 15-6

The area north of the project site is designated 'Rural County' in the *City of Morgan Hill General Plan*. Two residential homes are located north of the project site, approximately 250 and 500 feet respectively, from the northern boundary of the project site. As shown in Figure 2-8, detention basins would be located on the northern boundary of the project site providing a 150-foot buffer from these large anchor stores to the northern property line.

2.0 RESPONSE TO COMMENTS

Due to the distance of these sensitive receptors to the loading docks behind these large anchor stores, the idling of delivery trucks at the project site would not be considered significant.

Response to Comment 15-7

The emission of diesel exhaust during construction activities is evaluated on page 3.3-15 of the Draft EIR. As the approved assisted living facility, would likely be completed prior to construction of the proposed project, the emission of diesel exhaust on this sensitive receptor is considered a potentially significant impact. Page 3.3-15 of the Draft EIR has been amended to address this approved sensitive receptor and the following mitigation measure has been incorporated in the EIR to reduce the emission of diesel exhaust to a less than significant level during construction activities associated with the proposed project.

MM-3.3-2b Subject to approval by the City of Morgan Hill, the project applicant shall limit the pieces of diesel-powered construction equipment used at any one time, and limit the idling and hours of operation for heavy-duty equipment as feasible during construction of the proposed project to limit the emission of diesel exhaust. Gasoline-powered equipment shall be used as an alternative to diesel to the extent feasible and when comparable equipment and technology is available.

Response to Comment 15-8

Comment noted. The *BAAQMD CEQA Guidelines* were used to evaluate the air quality impacts of the proposed project. Please see Response to Comment #15-7.

Comment Letter #16



BROWMAN DEVELOPMENT COMPANY, INC.
Development • Leasing • Management

August 29, 2005

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Attention: Rebecca Tolentino – Senior Planner

Re: Developer Comments on Draft EIR dated July, 2005
Cochrane Road Planned Unit Development
SCH# 2004112060

Ladies and Gentlemen:

The following are the Developer's comments with respect to the content of the Draft EIR for the subject project, as follows:

16-1

MM 3.4-2: I have researched the length of the nesting season for raptors and migratory birds. It runs from February 1 through June 30 rather than through August 31 as stated in the EIR.

16-2

MM 3.5-1a: The automatic 150 foot (50 yards) distance for cessation of work in the event of an archeological or similar finding is excessive. I suggest that if such a finding should occur, a 30 foot cessation of work distance be used. If necessary, within 10 days of identifying such finding, a licensed archeologist or other qualified expert could be called in to determine whether this is the appropriate distance or if a larger or smaller cessation area is necessary.

16-3

MM 3.11-1: It is not in our current plans to include video surveillance and full time security. Instead, we will prepare a comprehensive shopping center security plan that may or may not include partial video surveillance and security personnel (as necessary) depending upon actual circumstances. This plan should change with circumstances and issues, if any which arise. The plan must remain flexible. We will confer with the Morgan Hill Police Department in the preparation of this plan. Such full time security and video surveillance measures are not presently operational in other shopping center projects in Morgan Hill.

Comment Letter # 16 Continued

16-4

MM 3.12-3: We wish to retain the two Mission View Drive driveways located behind the Cinema. These driveways are right turn only and necessary for truck deliveries. They will be used infrequently. Removal of these driveways and installation of a drive aisle behind the Cinema building, as suggested, would also cause the loss of a substantial landscape area along Mission View Drive behind the Cinema.

16-5

MM 3.12-9: There will not be adequate roadway width for a bicycle lane on Mission View Drive upon initial project development. A bicycle lane is included in the City of Morgan Hill's ultimate design for this roadway.

MM 3.12-10: This mitigation measure needs to be deleted. The project provides more than adequate parking as evidenced in the EIR. First, the project exceeds the City of Morgan Hill parking requirements by 69 stalls. Second, the project exceeds the latest Institute of Transportation Engineers (ITE) Parking Generation (3rd Edition) parking requirements for the peak period on the busiest day (weekend 1:00pm) by over 20% or approximately 550 stalls (including 10% circulation factor). At all other times, there are significantly more vacant parking spaces than the 20% safety factor set forth above. ITE and City of Morgan Hill parking requirements include a significant amount of food service, restaurants & quick service food operations in their parking demand analysis. The ITE rates are intended already to be very conservative. The same conservative ITE rates are used in heavy metropolitan areas and light populated trade areas like Morgan Hill without adjustment. Therefore it is inappropriate to make undocumented assumptions as to an underlying mix of restaurants and/or food services uses in ITE Rates. The project needs to be looked at as a whole and no additional parking or limitations on building uses and/or square footage is appropriate.

16-6

* The existing Tennant Station (Safeway, CineLux) and the Lawrence Oaks Center (Safeway, Home Depot, Longs Drugstore) in Morgan Hill provide parking at 4.0 stalls/1,000 sf of building area.

* Many other Bay Area shopping centers recently developed or currently under development have been approved for development in their communities with parking ratios inferior to ours without the imposition of overly restrictive restaurant and food service uses as proposed in the EIR. Some examples are as follows:

** Rivermark Shopping Center (Under Development)
Agnew Parkway (De La Cruz) and Montague Expressway
Santa Clara, CA

Major Tenants: Safeway, Piatti's, Baja Fresh, Pick up Stix, Jamba, Starbucks
13.77 acres; 191,000 sf Building Area
On-site Parking Stalls: 719 spaces; Parking Ratio: 3.76 stalls/1,000 sf of building area

Note. An additional 150 room hotel is approved for this location without the addition of any surface parking.

Comment Letter #16 Continued

** Main Street Santa Teresa Shopping Center (Existing)

Blossom Hill and Santa Teresa
San Jose, CA..

Major Tenants: Albertson's plus 87,858 sf of shops including 24,484 sf of restaurants:
Armadillo Willys, Una Mas Taqueria, Le Boulanger, Johnny Rockets, Pick Up Stix,
Chinese, Kang Nam Korean Restaurant, Chaat Café, Wasabi Restaurant, Camille's
Sidewalk Café, Pizza My Heart.

138,043 sf Building Area

On-site Parking Stalls: 561; Parking Ratio: 4.06 stalls/1,000 sf of Building Area.

** South Shore Shopping Center (Renovation)

Otis Drive and Park Street,
Alameda, CA..

Major Tenants: Safeway, Albertson's, Mervyn's, Trader Joe's, Walgreens, Office Max,
Ross, Big 5, Petco, Applebee's.

600,000 sf Building Area

On-site Parking Stalls: 2,400; Parking Ratio: 4.00 stalls/1,000 sf of Building Area.

** Stevens Creek Central Shopping Center (Existing)

Stevens Creek Blvd. and Lawrence Expressway
San Jose, CA

Major Tenants: Safeway, Linens N' Things, Marshalls, K.B. Toys

195,698 sf Building Area

On-site Parking Stalls: 868; Parking Ratio: 4.44 stalls/1,000 sf of Building Area.

** Mercado Shopping Center (Existing)

Highway 101 & Great America Parkway
Santa Clara, CA

Major Tenants: AMC Cinema (20 screens), Tomatitas, Mexicali Grill, Sushi Lovers.

210,000 sf Building Area

On-site Parking: 783 stalls; Parking Ratio: 3.73 stalls/1,000 sf of Building Area.

** Target Shopping Center (Under Development)

NEC Hesperian Blvd. and A Street
Hayward, CA

Major Tenant: Target (140,850 sf), Junior Major, Shops and Restaurants
190,000 sf Building Area.

On-site Parking: 650 stalls; Parking Ratio: 3.53 stalls/1,000 sf of Building Area

Project approved for development by the City of Hayward on July 26, 2005.

Comment Letter #16 Continued

16-6

Overall, the proposed shopping center will provide substantial parking for its customers. This proposed mitigation measure is unnecessary and very burdensome.

The foregoing is a list of our EIR comments to date. We reserve the right to provide additional comments as circumstances evolve and responses from other entities, both verbal and written, are received.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Ward", written in a cursive style.

Gary Ward
Project Manager

2.0 RESPONSE TO COMMENTS

Response to Letter 16 – Browman Development Company Inc. – August 29, 2005

Response to Comment 16-1

The project applicant notes that the length of time of the nesting season for raptors and migratory birds in Mitigation Measure 3.4-2 is incorrect. The length of time noted for the nesting season in Mitigation Measure 3.4-2 is based on the nesting season for the migratory birds that nest in the vicinity of the project site as discussed in Section 3.4, Biological Resources of the Draft EIR (pages 3.4-12 through 3.4-18). For example, the breeding season for the Vaux's Swift occurs from May to mid-August and the breeding season for the Long-billed Curlew occurs from mid-April to September. Therefore, the nesting period included in Mitigation Measure 3.4-2 is appropriate to ensure that local avian species that nest at the project site are not affected by construction activities at the project site.

Response to Comment 16-2

The project applicant notes the distance for cessation of work in the event of discovery of an archaeological find is excessive. Based on a personal communication with John Nadolski, Cultural Resource Specialist with PMC who prepared the cultural resource analysis, the 150 feet distance may be reduced to 50 feet due to the low archaeological sensitivity of the project site and based on standard archaeological practice. Mitigation Measure 3.5-1a has been revised as follows:

MM 3.5-1a Should any previously undisturbed cultural, historic, or archaeological resources be uncovered in the course of site preparation, clearing or grading activities, all operations within ~~150~~ 50 feet of the discovery shall be halted until such time as a qualified professional archaeologist can be consulted to evaluate the find and recommend appropriate action. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the City of Morgan Hill and implemented by the project applicant.

Response to Comment 16-3

Comment noted. As discussed on page 3.11-6 of the Draft EIR, Mitigation Measure 3.11-1 was incorporated into the EIR to reduce the number of service calls anticipated by the City of Morgan Hill Police Department due to the proposed project.

Response to Comment 16-4

Although they are proposed by the project applicant for deliveries, as discussed on page 3.12-20 of the Draft EIR, the six driveways shown on the site plan along Mission View Drive create the potential for increased vehicle conflicts with pedestrians walking along

Mission View Drive. This is considered a potentially significant impact under the California Environmental Quality Act as it creates a hazardous condition for bicyclists and pedestrians. Mitigation Measure 3.12-3 has been revised to incorporate traffic calming improvements at the driveways located along Mission View Drive to minimize pedestrian and vehicle conflicts at the project site as follows:

MM 3.12-3 The two driveways shown directly behind the movie theater complex on Mission View Drive (i.e., the second and third driveways north of the Cochrane Road intersection) should be eliminated from the proposed project, and a circulation aisle should be provided behind the movie theater complex. The project applicant shall work with the City to incorporate traffic calming improvements at the driveways located along Mission View Drive to minimize pedestrian and vehicle conflicts at the project site.

Response to Comment 16-5

Implementation of Mitigation Measure 3.12-9 would be required to ensure consistency with Policy 71 in the *City of Morgan Hill General Plan*. Please note that until the Roland property is developed, bike lanes will be provided up to the main driveway off Mission View Drive. Once the Roland property develops, bike lanes will be installed on both sides for the full length of Mission View Drive.

Response to Comment 16-6

Since release of the Draft EIR, City staff has researched the parking requirement for shopping centers in various jurisdictions. Based on the information City staff gathered, it appears that most cities have a general shopping center rate and, for the most part, do not look at individual uses within the shopping centers (e.g. restaurants). The cities that were contacted include Concord, Gilroy, Union City, Fremont, Hayward and Walnut Creek. Provided below is a condensed summary of the information that was obtained:

- City of Concord: 4.5 spaces / 1,000 square feet of gross floor area for shopping centers over 50,000 square feet in size; also, "if at least 25 percent of the gross floor area is to be occupied by uses which require substantially more or less parking than that identified above, the approving body may allow the parking standard for each specific use to be used to calculate the parking requirements."
- City of Gilroy: 1 space / 200 square feet of gross floor area (regardless of use) for regional retail commercial centers.
- City of Fremont: 1 space / 250 square feet of gross leasable area, exclusive of bowling alleys, movie theaters and skating rinks, for shopping centers.

2.0 RESPONSE TO COMMENTS

- City of Hayward: 1 space / 250 square feet of gross floor area (regardless of use) for shopping centers over 40,000 square feet in size.
- City of Walnut Creek: 1 space / 250 square feet of rentable floor area for shopping centers over 50,000 square feet in size in the Community Commercial Zone. In all other commercial zones parking is based on each individual use. (Note: The Pedestrian Retail Zone requires 1 space / 300 square feet regardless of use. However, staff determined that the Pedestrian Retail Zone does not apply since it encompasses the downtown area where parking structures are provided.)
- Union City: At the Union Landing shopping center, initially, the parking requirements for each individual use was calculated, and then a shared parking analysis was prepared to determine the final parking requirement. It should be noted that use permits were partly required to ensure that adequate parking was available; however, Union Landing has a large number of restaurants.

Based on the above information, City staff feels the City parking requirements discussed in the Draft EIR (1 space / 3.5 cinema seats plus 1 space / 283 square feet for the rest of the shopping center), are consistent with the parking requirements of other jurisdictions. This supports our earlier assertions that the proportion of restaurants contemplated in the ITE rates in general is not 'minor'. Furthermore, as noted in the EIR, the City's parking requirement is actually more conservative than the shared parking analysis prepared for the proposed project. For these reasons, City staff has revised MM 3.12-10 to ensure that the overall number of parking spaces included in the proposed project meets the City parking requirement as follows: the cinema shall be parked at 1 space for every 3.5 seats, and the remainder of the shopping center shall be parked at one space for every 283 square feet. Also, in order to ensure adequate parking is available on-site, eating establishments shall occupy no more than 20 percent of the overall shopping center building square footage.

Mitigation Measure #3.12-10 has been revised as follows:

MM 3.12-10 The overall number of parking spaces included in the project shall be required to meet the ~~aggregate parking demand of the various land uses proposed within the project, to be determined as follows:~~

~~At the time of subsequent discretionary approval (e.g., use permit, design review) for each individual restaurant pad or space, the parking supply provided for each such pad or space shall meet the peak parking demand for the specific type of restaurant proposed (e.g., sit down, fast food), as determined through either the applicable City code parking requirement as follows: the cinema shall be parked at 1 space for every 3.5 seats, and the remainder of the shopping center shall be parked at one space for~~

2.0 RESPONSE TO COMMENTS

~~every 283 square feet. Also, in order to ensure adequate parking is available on-site, restaurants shall occupy no more than 20 percent of the overall shopping center building square footage (If the cinema is not included in the proposed project then this restriction would no longer apply). or through application of the ITE shared parking rates for 1 PM on a weekend day (plus 10 percent). After the center is 75-20 percent built-out on the basis of floor area (assuming the cinemas have been completed), the calculation of parking requirements for new restaurant uses may be adjusted based on the results of physical parking surveys conducted at the center by a qualified transportation consultant during the peak usage period. (If the cinemas have not been completed upon 20 percent project completion, then the buildout threshold for such calculations shall be 85 percent of project buildout.) As a guide to the approximate maximum floor area of restaurant that can be constructed without resulting in a parking deficiency for the project, the maximum floor area can range from 25,000 square feet (assuming 100 percent sit-down restaurant) to 41,000 square feet (assuming 100 percent fast food restaurant), although the actual maximum will fall between these numbers if the project ultimately includes a mix of the two restaurant types. (These maximum figures assume floor areas for all other project uses will remain as proposed on the May 2, 2005 project site plan.)~~

Comment Letter #17

Santa Clara Valley
Water District



5750 ALMADEN EXPWY
SAN JOSE, CA 95118-3614
TELEPHONE (408) 266-2600
FACSIMILE (408) 266-0271
www.valleywater.org
AN EQUAL OPPORTUNITY EMPLOYER

File: 19473
Cochran Channel

August 30, 2005

Ms. Rebecca Tolentino, Associate Planner
City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Subject: Cochran Road Planned Unit Development

Dear Ms. Tolentino:

The Santa Clara Valley Water District (District) has reviewed Volume I and Appendix H of the Draft Environmental Impact Report (DEIR) for the subject project, received on July 20, 2005. The District has the following comments on the DEIR:

17-1 **Page 3.4-20, Jurisdictional Waters**—The text states that "Current construction plans do not include any fill, alteration, or disturbance of either the channel or the creek." However, the DEIR states that water from the detention ponds will be pumped to Cochran Channel. In order to pump water into Cochran Channel from the project site, disturbance of Cochran Channel will need to take place. Any proposed outfall into Cochran Channel must be designed such that it does not impact the District's maintenance access road or the District's Cross Valley Pipeline which is located adjacent and parallel to the east bank of Cochran Channel. Additionally, the San Francisco Bay Regional Water Quality Control Board and California State Department of Fish and Game may need to approve the proposed discharge in conjunction with the District's required permit.

17-2 **Page 3.7-3, Imported Fill Soil**—The text states "The imported soil was generated by the Santa Clara Valley Water District pipeline which was installed about one mile north of the project site." However, the nearest District pipeline to the project site is located adjacent to and within the project site along the southerly and westerly property lines.

17-3 **Appendix H**—The District's Hydrologic Engineering Unit reviewed Schaaf & Wheeler's technical report and found it to be incomplete in addressing the hydrology issues. The following items need to be provided and properly addressed:

A clear watershed map which shows watershed boundaries, the location of the project, existing hydrologic structures, etc.
Calculations of peak flows and volumes for pre- and post-development conditions showing the induced flooding due to the proposed development. The District's Hydrologic Engineering Unit should be consulted. The District's Hydrograph method should be used for this hydrology study. The calculations must show that development of the site will not increase the peak flow of Coyote Creek particularly during a 10-year



Comment Letter # 17 continued

and 100-year flood event or increase the duration of the peak flows.

Adequate information must be provided regarding the operational guidelines for the detention facilities.

The increased flows between the existing and proposed conditions are quite significant, as re-summarized in the table below. The applicability of the rational method should be checked.

	2-Yr (cfs)	10-Yr (cfs)	25-Yr (cfs)	100-Yr (cfs)
Existing	5.9	9.3	10.9	13.2
Proposed	43.3	69.5	82.0	99.8

The text indicates that increased flow volumes and erosion is not a concern due to the fact that Cochran Channel is a concrete lined channel. However, Coyote Creek is not a hardened channel and increased volumes into Coyote Creek need to be addressed.

Section 3.8, Surface Water Hydrology and Water Quality—This section does not include any mention of potential impacts to groundwater quality. The text does not appear to state whether the detention basins will be lined to prevent infiltration into the groundwater. If the detention basins are to be designed to provide post-construction water quality mitigation by infiltration, then resulting impacts to groundwater quality must be addressed.

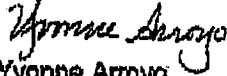
Pages 3.8-7 and 3.8-8, Increased Stormwater Runoff Impact 3.8-1—This section identifies significant increases in peak flow rates and identifies the need for detention facilities. The District does not believe the hydrology study in Appendix H is complete and does not provide sufficient detail to show the project will not induce downstream flooding or the frequency of flooding in Coyote Creek. Therefore, the District does not agree with the statement that "No mitigation measure is required." Induced flooding from increased stormwater runoff from the site does need to be mitigated with appropriately designed detention facilities that meet District standards and its obligations as a co-permittee of the Santa Clara Valley Urban Runoff Pollution Prevention Program.

Section 3.13 Utilities—This section should include discussion of the District's Cross Valley Pipeline which surrounds the southerly and westerly property lines of the project site. The Cross Valley Pipeline is a major raw water transmission line which delivers water to the District's Santa Teresa Water Treatment Plant. Previous project conceptual plans submitted to the District for this same project site identified design difficulties in the design of storm drain improvements and widening Cochran Road. If these design issues are not resolved then the site design, including street improvements, may need to be modified. The DEIR should address any potential adverse impacts to the Cross Valley Pipeline resulting from the project improvements whether temporary or permanent. Any proposed modifications to the Cross Valley Pipeline would be at the District's discretion.

Comment Letter #17 Continued

We thank you for the opportunity to review the DEIR. We look forward to reviewing the Final Environmental Impact Report. Any questions may be directed to me at (408) 265-2607, extension 2319.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippetts, Y. Arroyo, W. Chang, M. Klemencic, File (2)

Response to Letter 17 – Santa Clara Valley Water District (SCVWD) – August 30, 2005

Response to Comment 17-1

Comment noted. The City of Morgan Hill will ensure that the proposed outfall into Cochrane Channel is designed such that it does not impact the District's maintenance access road or the District's Cross Valley pipeline located adjacent to the project site. Since release of the Draft EIR, Karl Bjarke and Jim Schaaf with Schaaf & Wheeler met with the Santa Clara Valley Water District to discuss the proposed project and related constraints to the 78-inch SCVWD Cross Valley pipeline. The SCVWD stated that the two 14-inch valves that would be located in Cochrane Road under full-build out, can't be relocated due to the strategic location of the valves, size and delicate nature of the valves, serviceability of the valves, and the high pressure involved. After discussing whether both valves were necessary, the SCVWD agreed that it is possible to remove the westerly valve without compromising their system. The SCVWD will review and get back to the City with additional input. If this is the case, Cochrane Road can be constructed in that location without an above-ground obstruction. The easterly valve, near the intersection of Cochrane Road and Mission View Drive is necessary. The SCVWD expressed to the applicants engineer that they would consider a slight movement of the 14-inch valve assembly to the south so as to place it in the center median of Cochrane Road. However, if that arrangement does not work, the geometry of the Cochrane Road/Mission View Drive intersection will have to change to fit the median around the above-the-ground obstruction.

Response to Comment 17-2

Comment noted. The location of the nearest SCVWD pipeline is noted and page 3.7-3 of the Draft EIR has been modified to reflect this change.

Response to Comment 17-3

Page 1 of the hydrology report prepared by Schaaf & Wheeler shows the project site within the Coyote Creek Watershed. Based on the size of the project site, the rational method is appropriate. Calculations of stormwater runoff, using the rational method of pre- and post-development conditions during the 2-year, 10-year, 25-year, and 100-year storm event are shown on pages 8 through page 10 of the hydrology analysis included in Appendix H of the Draft EIR. As discussed on page 3.8-8 of the Draft EIR and the hydrology analysis included in Appendix H, stormwater pumped to the adjacent Cochrane Channel will be discharged at rates which are at or below pre-development levels as required by the SCVWD. Operational guidelines of the detention facilities are discussed in the Draft EIR and on page 20 of the hydrology analysis included as Appendix H of the Draft EIR.

Coyote Creek is a large watershed of approximately 200 square miles. The Cochrane Channel discharges into the Coyote Creek. The 2-year discharge of 5.9 cubic feet per

2.0 RESPONSE TO COMMENTS

second (cfs) or the 100-year discharge of 13.2 cfs associated with the proposed project would not affect the erosion potential of Coyote Creek. The two-year discharge on Coyote Creek at the Madrone Stream gage (near the discharge point) is approximately 150 cfs under the regulation by Anderson Dam. The 100-year regulated discharge is approximately 16,000 cfs. (The 2-year discharge in under pre-dam conditions could be as much as 5 to 10 times greater than the current 2-year value of 150 cfs.) The small discharges from the proposed project would be of no consequence compared to the existing flows coming from releases from Anderson Dam or from spillway flows from Anderson Dam.

Based on information obtained from the SCVWD, the SCVWD is releasing 48 cfs down Coyote Creek without any fear of erosion of the creek. A review of recent records as placed on the District's web site shows:

Flow Rate (cfs)	Date and Time
48.00	09/14/2005 06:24:31 PM
48.00	09/15/2005 02:24:32 AM
49.00	09/15/2005 16:24:31 AM
45.69	09/15/2005 10:24:29 AM
9.69	09/15/2005 12:42:03 PM
45.69	09/15/2005 02:24:28 PM

Based on this information, the Cochrane Channel can apparently withstand 48 cfs for extended periods of time. The small peak 2-year discharge of 5.9 cfs can then surely be accommodated in Coyote Creek without affecting the erosion potential Coyote Creek. Even the 100-year existing discharge, which is proposed to be the peak outflow under developed conditions is less than the 48 cfs currently being released by the SCVWD.

In 1987, the last year the steam gage was operated by the United States Geological Survey, the releases during the month of June ranged from 65 cubic feet per second (cfs) to 102 cfs and averaged 78.5 cfs. Based on this information, Coyote Creek Channel can withstand flows much in excess of 5.9 cfs and still maintain an erosion-free environment. These small flows from the project site are not significant when compared to the flows released down Coyote Creek from Anderson Dam.

At the meeting between City staff and the SCVWD, Marc Clemenic of the SCVWD noted that the Hydrograph Modification Plan (HMP) requirements discussed by the commenter would not be required as Coyote Creek is a stable channel and thus no additional HMP provisions need to be done to meet water quality criteria. It was recommended that the pump stations would be tied to the District's ALERT system and would shut down

2.0 RESPONSE TO COMMENTS

whenever there were flows high enough in Coyote Creek to cause flooding at the William Street area in the City of San Jose. This area was selected by the SCVWD as it has the lowest flooding threshold along the creek from Anderson Dam to San Francisco Bay.

According to the Flood Insurance Study Report for San Jose, Coyote Creek has a 100-year peak discharge of 15,000 cfs at the Madrone gage near the project site and is reduced to 12,630 cfs at Interstate I-680 and then is abruptly reduced to 11,400 cfs upstream of the confluence with Silver Creek. The William Street area in the City of San Jose is just downstream of I-680 and has the lowest flooding threshold along the creek from Anderson Dam to San Francisco Bay. The pumping facilities would have to shut down only for major events, or events that are in excess of the 10-year flood and are most likely in the neighborhood of the 50-year to 100-year floods. The SCVWD has proposed a telemetry system to be installed which senses the flow in Coyote Creek at a District stream gage system and closes down the pumping system when creek discharges reach or exceed a given level believed to cause flooding in the William Street area.

Page 3.8-8 through of Section 3.8, Surface Water Hydrology and Water Quality has been revised as follows:

The stormwater to be temporarily stored in the planned detention ponds will be pumped to the adjacent Cochrane Channel at discharge rates which are at or below pre-development levels, as required by the SCVWD. ~~No mitigation measure is required.~~

According to the Flood Insurance Study Report for San Jose, Coyote Creek has a 100-year peak discharge of 15,000 cfs at the Madrone gage near the project site, is reduced to 12,630 cfs at Interstate I-680 and then is abruptly reduced to 11,400 cfs upstream of the confluence with Silver Creek. The William Street area has the lowest flooding threshold along the creek from Anderson Dam to San Francisco Bay and is located downstream of I-680. The pumping facilities at the project site would have to shut down only for major events, or events that are in excess of the 10-year flood and are most likely in the neighborhood of the 50-year to 100-year floods to ensure that downstream flooding does not occur. The following mitigation measure would reduce this potentially significant impact due to a less than significant level.

Mitigation Measure

MM 3.8-4 Subject to approval by the SCVWD, the project applicant shall install a telemetry system which senses the flow in Coyote Creek at a SCVWD stream gage system, and shuts down the pumping system at the detention ponds when creek discharges reach or exceed a levels believed to cause flooding in the William Street area in the City of San Jose.

2.0 RESPONSE TO COMMENTS

Implementation of this mitigation measure would ensure that stormwater discharges from the proposed project do not induce downstream flooding during major storm events.

Response to Comment 17-4

Water quality associated with the proposed project is discussed on pages 3.8-11 and 3.8-12 of the Draft EIR, as well as pages 17 through 20 of the hydrology analysis included as Appendix H in the Draft EIR. The stormwater from the project site would be treated to satisfy the NPDES Phase II Permit requirements. The stormwater would be treated to the maximum extent practicable, regardless of whether the C.3 provisions of Region 2 are deemed applicable to the proposed project. Based on the proposed size of the detention ponds, the 2.8 acre-feet retention storage would occupy approximately the bottom 2.3 feet of the ponds and could be drained over a period of 48 hours using a sump pump with approximately 320 gallons per minute capacity. The purpose of the 2.8 acre feet of dead storage to be located at the bottom of the detention ponds is to allow sufficient volume to settle out sediments before discharging runoff from small storm events. The accumulation of sediments in the bottom of the ponds will decrease the amount of storage available for both detention and water quality treatment; therefore maintenance provisions would be required to clean out the detention ponds. Implementation of these water quality measures would ensure that any infiltration of stormwater runoff into the groundwater would not result in an impact to the groundwater system.

Based on the meeting with SCVWD, Mitigation Measure 3.8-3 has been modified to incorporate vortex separators into the proposed project in order to improve runoff quality into the detention ponds. Operation and maintenance of these systems would be the responsibility of the property owners.

Mitigation Measure

MM 3.8-3 The proposed project shall include structural and non-structural stormwater controls, in order to reduce non-point source pollutant loads.

Specifically, the detention ponds planned at the northern end of the project site to temporarily store post-development runoff shall be designed to provide water quality treatment through settling of sediments prior to the discharge of the stormwater to Cochrane Channel. These dual-purpose ponds will provide both stormwater detention and water quality treatment, to a sufficient level to comply with the amended Provision C.3 of the SCVURPPP NPDES Phase 2 Permit requirements, if those requirements are deemed to be applicable to the proposed project (see Section 3.8.2 Regulatory Setting, above, for a full discussion).

2.0 RESPONSE TO COMMENTS

Additional post-construction Best Management Practices (BMPs) to be implemented will include, but not be limited to the following:

- Impervious surfaces such as roads, parking lots, and driveways shall be routinely cleaned during both the "wet" and "dry" seasons to limit the accumulation of "first flush" contaminants;
- Features such as detention ponds shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;
- Engineered products, such as storm drain inlet filters, oil/water separators, vortex separators etc., shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;
- The developer shall distribute educational materials to the first tenants of properties included in the project development. These materials shall address good housekeeping practices relating to stormwater quality, prohibited discharges, and proper disposal of hazardous materials;
- Common landscaped areas shall be subject to a program of efficient irrigation and proper maintenance including minimizing use of fertilizer, herbicides and pesticides;
- The project tenants and users shall implement a trash management and litter control program to mitigate the impacts of gross pollutants on storm water quality. This program shall include litter patrol, emptying trash receptacles in common areas, and reporting and investigating trash disposal violations;
- Storm drain inlets shall be labeled with the phrase "No dumping – flows to Bay," or a similar phrase to mitigate the impact of potential for discharges of pollutants to the storm drain system;
- Restaurants within the development shall be designed to include contained areas for cleaning mats, containers and sinks connected to the sanitary sewers. Grease shall be collected and stored in a contained area and shall be removed regularly by a disposal recycling service. To this end, sinks shall be equipped with grease traps to provide for its collection.

2.0 RESPONSE TO COMMENTS

The portion of the project SWPPP that addresses post-construction practices shall itemize these and any additional pollution control measures required for the proposed project.

Response to Comment 17-5

See Response to Comment #17-3

Response to Comment 17-6

See Response to Comment #17-1.

Comment Letter #18



Arnold
Schwarzenegger
Governor

1A

Governor's Office of Planning and Research State Clearinghouse and Planning Unit



Sean Walsh
Director

September 7, 2005

Rebecca Tolentino
City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Subject: Cochran Road Planned Unit Development (PUD) EIR
SCH#: 2004112060

Dear Rebecca Tolentino:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on August 29, 2005. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

18-1 The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2004112060) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

2.0 RESPONSE TO COMMENTS

Response to Letter 18– State of California Governors Office of Planning and Research

Response to Comment 18-1

The comment letter provided by the State of California Governors Office of Planning and Research was considered in the Final EIR.

Comment Letter #19



State of California - The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 844-5500



August 30, 2005

Ms. Rebecca Tolentino
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Dear Ms. Tolentino:

Cochrane Road Planned Unit Development.
Morgan Hill, Santa Clara County
SCH 2004112060

19-1

The Department of Fish and Game (DFG) has reviewed the document for the subject project. We do not have specific comments regarding the proposed project and its effects on biological resources. Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G)¹. Therefore, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Santa Clara County Clerk on or before filing of the Notice of Determination for this project.

If you have any questions, please contact Mr. Dave Johnston, Environmental Scientist, at (831) 475-9065; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,

Robert W. Floerke
Regional Manager
Central Coast Region

cc: State Clearinghouse

¹ <http://ccr.oal.ca.gov/>. Find California Code of Regulations, Title 14 Natural Resources, Division 1, Section 753

Conserving California's Wildlife Since 1870



2.0 RESPONSE TO COMMENTS

Response to Letter 19– State of California Governors Office of Planning and Research

Response to Comment 19-1

Comment noted. No environmental issues were raised and therefore no response is necessary

Comment Letter 20

Erika Spencer

From: Ashleigh Coffeng [ashcoffeng@yahoo.com]
Sent: Thursday, September 01, 2005 1:37 PM
To: Rebecca.Tolentino@morganhill.ca.gov
Subject: Cochrane and 101 proposed development

Hi Rebecca,

20-1 I am a homeowner in Coyote Estates at Cochrane and Peet. We moved down here to get away from the traffic and noise of San Jose. We are very concerned to hear that The new EIR does not accurately count the traffic that will be produced by the development of the center. They also failed to really count the weekend traffic. I oppose the development from an environmental impact standpoint as well as aesthetics and financial impact it will have on existing retailers in Morgan Hill.

20-2 I would like to see a more thorough EIR done to gage the impact of traffic on weekends and weekdays and a time study to see the impact to homeowners to see how much longer it would take to get home from the US 101 from both North and Southbound directions.

20-3 Has their been any further studies done about the economic impact on existing businesses. The developers claim their won't be any, but we are well aware that there will be significant impact.

Thank you for your time,
Ashleigh Coffeng
408-776-8216

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2.0 RESPONSE TO COMMENTS

Response to Letter 20– Ashleigh Coffeng

Response to Comment 20-1

Section 3.12, Transportation and Circulation presents the traffic impacts associated with the proposed project. In addition to AM and PM peak hour traffic, Saturday peak hour traffic was evaluated in the EIR.

The commenter expresses their opinion on why they oppose the proposed project, but does not raise a specific environmental issue regarding aesthetics and/or economic impacts to address herein.

Response to Comment 20-2

As discussed above, Section 3.12, Transportation and Circulation addresses the traffic impacts associated with the proposed project. The projected level of service of intersections on Cochrane Road, as well as the change in the critical delay associated with the proposed project is shown on page 3.12-16 of the Draft EIR.

Response to Comment 20-3

An economic impact analysis of the proposed project was prepared for the Draft EIR and is included in Appendix I. The potential for urban decay due to secondary economic impacts is presented on pages 3.9-9 through 3.9-17 of the Draft EIR in Section 3.9, Land Use. Based on the economic impact analysis prepared by Bay Area Economics, the proposed project would likely lead to a significant and unavoidable impact with respect to urban decay and physical deterioration at the Cochrane Plaza shopping center.